

Application No. 10/050,711
Amendment After Final Action dated March 23, 2004
Reply to Office Action of December 19, 2003

REMARKS

Claims 1-5 and 8-25 remain pending in the application.

Claim 1 is independent.

Claims 5 and 20 have been amended. Claims 12-14 and 18 have been cancelled, without prejudice or disclaimer of that which was defined thereby.

As such, Claims 1-4, 8-11, 15-17 and 19-25 remain presented herein for examination.

Claims 1-5, 8-19 and 21 have been rejected, though Claim 21 had been determined in the Office Action mailed September 10, 2003 to be allowable if rewritten in independent form. Applicant remains grateful of such determination and continues to expressly reserve the right to do so.

Claims 20 and 22-25 have also now been determined to be allowable if rewritten in independent form. Applicant is grateful of such determination and expressly reserves the right to do so.

Applicant acknowledges with appreciation the indication in the Action that the Section 112, second paragraph, rejection of Claims 16, 17 and 20-25; and the rejections under Sections 102 and/or 103 over Field and Neckers have been withdrawn.

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**Applicant's Response to
Section 112, ¶ 2 Rejections**

Claims 5, 13, and 18 stand rejected under 35 U.S.C. § 112, second paragraph, and 21 remain rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite, reasons for which are given at page 3 of the Action.

Initially, Applicant notes that the Section 112 rejections of Claims 5, 13 and 18 are advanced for the first time. As such, Applicant submits that the finality of the Action is premature and requests that it be withdrawn.

Applicant has amended Claims 5 and 20 in a manner which overcomes these Section 112 rejections. Applicant has also cancelled Claims 13 and 18, thereby rendering moot the Section 112 rejections thereof.

Accordingly, Applicant submits the Section 112 rejections should no longer be mentioned.

**Applicant's Response to
Sections 102 and 103 Rejections**

Claims 1-5, 11-13, and 15-19 remain rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by or in the alternative, under 35 U.S.C. § 103(a) as allegedly being obvious over Trom. Claim 8 and 9 stand rejected for the first time under Section 102(e) as allegedly being anticipated by or in the alternative, under Section 103(a) as allegedly being obvious over

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Trom. Reasons for these rejections are found at pages 3-4 of
the Action.

Initially, Applicant notes that the Section 102/103
rejections of Claims 8 and 9 are advanced for the first time.
As such, Applicant submits that the finality of the Action is
premature and requests that it be withdrawn.

Applicant's cancellation of Claims 12-14 and 18
renders moot the Sections 102 and 103 rejections thereof.

Applicant traverses the remaining Section 102 and 103
rejections.

Independent Claim 1 defines the invention as presently
defined as a (meth)acrylate composition comprising a
(meth)acrylate component; and a dye substantially dissolved in
said (meth)acrylate component which imparts a first color to
said (meth)acrylate component, where upon curing, a resultant
cured composition has a second color. The dye is selected from
xanthene dyes, and optionally, anthraquinone dyes, where the
xanthene dyes are chosen from fluorescein, dibromofluorescein,
diiodofluorescein, tetrabromofluorescein, tetraiodofluorescein,
tetrabromotetrachlorofluorescein, and combinations thereof.

Against this invention, only Trom remains as a U.S.
patent cited under either Section 102(e) or 103(a), Title 35
U.S.C.

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As the Examiner is aware, Trom is directed to color changing dental compositions, which include a hardenable resin, a hardener and a photo bleachable dye. The hardener is a sensitizing compound different from the dye and the dental sealant possesses an initial color prior to exposure to atinic radiation and a final color that is different from the initial color after the sealant is exposed to radiation. The photobleachable dye is selected from Rose Bengal, Methylene Violet, Methylene Blue, Fluorescein, Eosin Yellow, Eosin Y, Ethyl Eosin, Eosin bluish, Eosin B, Erythrosin B, Erythrosin Yellowish Blend, Toluidine Blue, 4',5'-Dibromofluorescein, and blends thereof.

Thus, comparing the invention as presently defined by Claim 1 to Trom, it is clear that Trom fails to disclose, teach or suggest each of the recitations set forth in Claim 1.

The Action cites to column 7, line 23 to column 8, line 11, where it is advanced that xanthene and anthraquinone dyes may be added as sensitizers to Trom's dental compositions. However, what the Action ignores is that Trom teaches xanthene and anthraquinones (among others) as sensitizers to be used in addition to the dye (discussed at column 3, line 29 to column 5, line 2), not instead of dyes.

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Thus, by citing Trom in the manner that it has, the action has ignored salient features of the invention, namely, that a dye is present and a sensitizer may also be present but not without the dye. Since Applicant has defined his dye as that which Trom defines as a sensitizer, it is clear that Trom fails to disclose each recitation of Applicant's invention as claimed.

Absent such precise disclosure, the rejections based on Section 102 cannot stand. Accordingly, reconsideration and withdrawal of the Section 102 rejections are respectfully requested.

Moreover, in view of the changes to Trom that the Action has made in order to construct the obviousness rejection, Applicant submits that violence has been done to Trom's disclosure, rendering it inappropriate for citation in the Section 103 setting. As such, the Section 103 rejections could only have been made from a hindsight perspective, which is well settled to be an improper standpoint from which to examine of an application for U.S. Letters Patent.

Accordingly, reconsideration and withdrawal of the Section 103 rejections are respectfully requested.

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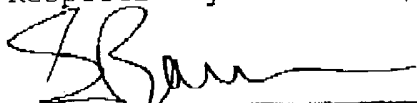
CONCLUSION

In view of the above, the present invention is patentably distinct from the documents of record. Accordingly, favorable reconsideration and issuance of a notice of allowance are respectfully requested.

The present paper is an earnest attempt at advancing prosecution on the merits, acceptance of which is believed to place the application in condition for allowance. At the very least, entry of this paper reduces issues for appeal. Applicant therefore respectfully requests prompt approval and entry of this Amendment After Final Rejection.

Applicant's undersigned attorney may be reached by telephone at (860) 571-5001, by facsimile at (860) 571-5028, or by email at steve.bauman@loctite.com. All correspondence should continue to be directed to the address given below.

Respectfully submitted,



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